

Exhibit 19

AGREEMENT

between

F.J. SCIAME CONSTRUCTION CO., INC. ("Contractor")

and

WHITESTONE CONSTRUCTION CORP. ("Subcontractor")

Dated: October 7, 2013

Received

OCT 08 2013

By:
Whitestone Construction Corp.

WCC 000838

EXHIBIT
5

TABLE OF
CONTENTS

Received

OCT 08 2013

By:
Whitestone Construction Corp.

WCC 000839

SUBCONTRACT AGREEMENT

TABLE OF CONTENTS

Section 1	AIA
Section 2	Rider A
Section 3	Checklist
Section 4	Rider B

- Exhibit A – Description of Project
- Exhibit B – Staffing Plan / Key Personnel
- Exhibit C – Access and Project Site Security Plan
- Exhibit D – Project Site Logistics Plan
- Exhibit E – Procurement Plan / Purchasing Schedule
- Exhibit F – Safety Requirements
- Exhibit G – Subcontractor Insurance Requirements
- Exhibit H – Cost of the Work
- Exhibit I – Design Professionals
- Exhibit J – Project Drawings
- Exhibit K – Project Specifications
- Exhibit L – Sciamé Project Schedule
- Exhibit M – Indemnitees
- Exhibit N – Subcontractor's Waiver and Release of Lien
- Exhibit O – Subcontractor's Final Affidavit and Release of Claims
- Exhibit P – Project Communications Program
- Exhibit Q – Closeout Procedures & Documentation
- Exhibit R – Subcontractor Warranty

Received

OCT 08 2013

By:
Whitestone Construction Corp.

WCC 000841



AIA Document A401™ – 2007

Standard Form of Agreement Between Contractor and Subcontractor

SUBCONTRACTOR'S ATTENTION IS CALLED TO THE RIDERS TO THIS AGREEMENT. THESE RIDERS FORM AN INTEGRAL PART OF THE AGREEMENT AND BY EXECUTING THE SUBCONTRACT, THE SUBCONTRACTOR SHALL BE BOUND BY ALL TERMS AND CONDITIONS SET FORTH IN THESE RIDERS AND ALL OTHER DOCUMENTS INCORPORATED BY REFERENCE HEREIN

AGREEMENT made as of the 7th day of October in the year 2013

BETWEEN the Contractor:

F.J. SCIAME CONSTRUCTION CO., INC.
14 Wall Street – 2nd Floor
New York, New York 10005

and the Subcontractor:

WHITESTONE CONSTRUCTION CORP
50-52 49 Street.
Woodside, NY 11377

The Contractor has made a contract for construction (hereinafter, the Prime Contract) dated:

with the Owner:

CITY UNIVERSITY CONSTRUCTION FUND
555 West 57th Street
New York, New York 10019

for the following Project:

NEW YORK CITY COLLEGE OF TECHNOLOGY – NEW ACADEMIC BUILDING
285 Jay Street
Brooklyn, NY 11201

The Prime Contract provides for the furnishing of labor, materials, equipment and services in connection with the construction of the Project. A copy of the Prime Contract, consisting of the Agreement Between Owner and Contractor (from which compensation amounts may be deleted) and the other Contract Documents enumerated therein, has been made available to the Subcontractor.

The Architect for the Project:

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference.

This document has been approved and endorsed by the Associated Specialty Contractors, Inc.

AIA Document A401™ – 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.

User Notes:

(1180134772)

WCC 000842

PERKINS EASTMAN
115 Fifth Avenue
New York, New York 10003

The Contractor and the Subcontractor agree as follows.

Int.
AIA Document A401™ – 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and international Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.
User Notes:

(1180134772)

WCC 000843

TABLE OF ARTICLES

1	THE SUBCONTRACT DOCUMENTS
2	MUTUAL RIGHTS AND RESPONSIBILITIES
3	CONTRACTOR
4	SUBCONTRACTOR
5	CHANGES IN THE WORK
6	MEDIATION AND BINDING DISPUTE RESOLUTION
7	TERMINATION, SUSPENSION OR ASSIGNMENT OF THE SUBCONTRACT
8	THE WORK OF THIS SUBCONTRACT
9	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
10	SUBCONTRACT SUM
11	PROGRESS PAYMENTS
12	FINAL PAYMENT
13	INSURANCE AND BONDS
14	TEMPORARY FACILITIES AND WORKING CONDITIONS
15	MISCELLANEOUS PROVISIONS
16	ENUMERATION OF SUBCONTRACT DOCUMENTS

ARTICLE 1 THE SUBCONTRACT DOCUMENTS

§ 1.1 The Subcontract Documents consist of (1) this Agreement; (2) the Prime Contract, consisting of the Agreement between the Owner and Contractor and the other Contract Documents enumerated therein; (3) Modifications issued subsequent to the execution of the Agreement between the Owner and Contractor, whether before or after the execution of this Agreement; (4) other documents listed in Article 16 of this Agreement; and (5) Modifications to this Subcontract issued after execution of this Agreement. These form the Subcontract, and are as fully a part of the Subcontract as if attached to this Agreement or repeated herein. The Subcontract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Subcontract Documents, other than Modifications issued subsequent to the execution of this Agreement, appears in Article 16.

§ 1.2 The Subcontract may be amended or modified only by a Modification. The Subcontract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and the Subcontractor, (2) between the Owner and the Subcontractor, or (3) between any persons or entities other than the Contractor and Subcontractor.

§ 1.3 Contractor shall make available the Subcontract Documents to the Subcontractor prior to execution of this Agreement, and thereafter, upon request, but the Contractor may charge the Subcontractor for the reasonable cost of reproduction.

(Paragraph deleted)

ARTICLE 2 MUTUAL RIGHTS AND RESPONSIBILITIES

§ 2.1 OBLIGATIONS AND RIGHTS UNDER PRIME CONTRACT.

§ 2.1.1 Subcontractor expressly assumes to Contractor all of the obligations and responsibilities for the performance of this Subcontract as the Contractor assumes toward the Owner respecting performance of the Prime Contract (all documents that comprise the Owner-Contractor Agreement). Subcontractor agrees that Contractor shall have, together with all other rights it may have under other terms of this Subcontract or otherwise, and to the fullest extent permitted by law, all rights and remedies against Subcontractor respecting the performance of this Subcontract that the Owner has against Contractor respecting the performance of the Prime Contract. This includes, without limitation, any exculpatory and indemnity provisions; any duty, including any absolute duty, to protect the Work; any exclusions or limitations upon Claims for damages for delay; any limitations of time, notice requirements, procedures or conditions precedent respecting Claims or requests of any kind; suspension of work; termination of the Contract; any requirements for documentation, substantiation, or certification of Claims or requests of any kind; any warranties or guarantees including specific guarantee retainage provisions; and any dispute resolution provisions, including forum, jurisdiction and venue provisions. Any time provisions imposed upon the Contractor under the Prime Contract or by law shall be binding upon the Subcontractor. Subcontractor must in each case provide Contractor with notice in time to allow the Contractor reasonable opportunity to evaluate and timely act upon any Claim or position asserted by Subcontractor. Subcontractor represents that it is fully familiar with the terms and conditions of the Prime Contract concerning all of the foregoing. The Subcontract, the Prime Contract and the other Contract Documents are intended to supplement and complement each other and shall, where possible, be thus interpreted. If, however, any provision of the Subcontract conflicts with a provision of the Prime Contract or any of the other Contract Documents, the provision imposing the more stringent or restrictive responsibility, obligation or limitation on Subcontractor shall govern.

§ 2.1.2 The Prime Contract and all documents incorporated by reference therein shall continue to be a Contract Document and, as such, is incorporated herein and made a part hereof, and Subcontractor shall continue to be bound by the Prime Contract, notwithstanding any termination, expiration or cancellation of the Prime Contract, or the assignment or reassignment of the Prime Contract by Construction Manager or Owner. The intent of the Contract Documents is to include all items necessary for the proper and timely execution and completion of the Work. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by Subcontractor shall be required if and to the extent consistent with the Contract Documents and inferable from them as being necessary to produce the intended results. In the event of any conflict or discrepancy between or among different versions of the same Contract Document, the most recently issued version takes precedence over previous versions. In the event of any conflict or discrepancy between provisions in separate Contract Documents, the provision imposing the more stringent or restrictive responsibility, obligation or limitation on Subcontractor shall govern. If the conflict or discrepancy between or among separate Contract Documents pertains to (i) quantity, then the Contract Document requiring the greater quantity shall be deemed to be more stringent, (ii) quality, then the Contract Document requiring the better quality shall be deemed to be more stringent, or (iii) cost, then the Contract Document requiring the greater cost shall be deemed to be more stringent.

§ 2.1.3 The Specifications and the Drawings shall be equal in authority and priority; provided, however, that in the event of conflict, (i) the Drawings shall govern as to the quantity and location, and (ii) the Specifications shall govern as to quality and performance.

§ 2.1.4 For all purposes, the terms "Contractor" and "Construction Manager" shall be interchangeable and at all times shall refer to F.J. Sciamie Construction Co., Inc. For all purposes of each Rider to this Agreement, the term "Subcontractor" shall refer to the Subcontractor identified on page 1 of this Agreement.

ARTICLE 3 CONTRACTOR

§ 3.1 SERVICES PROVIDED BY THE CONTRACTOR

§ 3.1.1 The Contractor shall cooperate with the Subcontractor in scheduling and performing the Contractor's Work to avoid conflicts or interference in the Subcontractor's Work and shall expedite written responses to submittals made by the Subcontractor in accordance with Section 4.1 and Article 5. Promptly after execution of this Agreement, the Contractor shall provide the Subcontractor copies of the Contractor's construction schedule and schedule of submittals, together with such additional scheduling details as will enable the Subcontractor to plan and perform the Subcontractor's Work properly. The Contractor shall promptly notify the Subcontractor of subsequent changes in the construction and submittal schedules and additional scheduling details.

§ 3.1.2 The Contractor shall provide suitable areas for storage of the Subcontractor's materials and equipment during the course of the Work as described in the Specifications and Bid Booklet.

§ 3.1.3 Except as provided in Article 14, the Contractor's equipment will be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms.

§ 3.2 COMMUNICATIONS

§ 3.2.1 The Contractor shall promptly make available to the Subcontractor information, including information received from the Owner, that affects this Subcontract and that becomes available to the Contractor subsequent to execution of this Subcontract.

§ 3.2.2 [Intentionally Omitted]

§ 3.2.3 [Intentionally Omitted]

§ 3.2.4 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Contractor, a subcontractor or anyone directly or indirectly employed by them (other than the Subcontractor), the Contractor shall, prior to harmful exposure of the Subcontractor's employees to such substance, give written notice of the chemical composition thereof to the Subcontractor in sufficient detail and time to permit the Subcontractor's compliance with such laws.

§ 3.2.5 The Contractor shall furnish to the Subcontractor within 30 days after receipt of a written request, or earlier if so required by law, information necessary and relevant for the Subcontractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property, usually referred to as the site, on which the Project is located and the Owner's interest therein.

§ 3.2.6 If the Contractor asserts or defends a claim against the Owner that relates to the Work of the Subcontractor, the Contractor shall promptly make available to the Subcontractor all information relating to the portion of the claim that relates to the Work of the Subcontractor.

§ 3.3 CLAIMS BY THE CONTRACTOR

§ 3.3.1 Liquidated damages for delay, as described in Section 9.3 of this Agreement, shall be assessed against the Subcontractor only to the extent caused by the Subcontractor or any person or entity for whose acts the Subcontractor may be liable, and in no case for delays or causes arising outside the scope of this Subcontract.

§ 3.3.2 The Contractor's claims for the costs of services or materials provided due to the Subcontractor's failure to execute the Work shall require

- .1 seven days' written notice prior to the Contractor's providing services or materials, except in an emergency; and
- .2 written compilations to the Subcontractor of services and materials provided by the Contractor and charges for such services and materials no later than the fifteenth day of the month following the Contractor's providing such services or materials.

§ 3.4 CONTRACTOR'S REMEDIES

§ 3.4.1 SUBCONTRACTORS FAILURE TO PERFORM WORK

If the Subcontractor defaults under or fails to carry out the Work in accordance with, the Contract Documents and fails within a five (5) day period after receipt of written notice from Contractor to commence and continue correction of such default or failure with diligence and promptness, the Contractor may, without prejudice to any other remedies the Contractor may have, carry out the Work or otherwise cure the default. In such case an appropriate Construction Change Directive or Change Order shall be issued deducting from payments then or thereafter due the Subcontractor all costs incurred by the Contractor in carrying out the Work or curing the default. If payments then or thereafter due the Subcontractor are not sufficient to cover such amounts, the Subcontractor shall pay upon demand the difference to Contractor. The right of the Contractor to stop the Work pursuant to this §3.4.1 shall not give rise to any duty on the part of the Contractor to exercise this right for the benefit of the Subcontractor or any other person or entity, nor are the rights enumerated in this §3.4.1 the exclusive remedies available to Contractor.

ARTICLE 4 SUBCONTRACTOR**§ 4.1 EXECUTION AND PROGRESS OF THE WORK**

§ 4.1.1 For all Work the Subcontractor intends to subcontract, the Subcontractor shall enter into written agreements with Sub-subcontractors performing portions of the Work of this Subcontract by which the Subcontractor and the Sub-subcontractor are mutually bound, to the extent of the Work to be performed by the Sub-subcontractor, assuming toward each other all obligations and responsibilities that the Contractor and Subcontractor assume toward each other and having the benefit of all rights, remedies and redress each against the other that the Contractor and Subcontractor have by virtue of the provisions of this Agreement.

§ 4.1.2 The Subcontractor shall supervise and direct the Subcontractor's Work, and shall cooperate with the Contractor in scheduling and performing the Subcontractor's Work to avoid conflict, delay in or interference with the Work of the Contractor, other subcontractors, the Owner, or separate contractors.

§ 4.1.3 The Subcontractor shall submit Shop Drawings, Product Data, Samples and similar submittals required by the Subcontract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Contractor or other subcontractors.

§ 4.1.4 The Subcontractor shall furnish to the Contractor periodic progress reports on the Work of this Subcontract as mutually agreed, including information on the status of materials and equipment that may be in the course of preparation, manufacture, or transit.

§ 4.1.5 The Subcontractor agrees that the Contractor and the Architect each have the authority to reject Work of the Subcontractor that does not conform to the Prime Contract. The Architect's decisions on matters relating to aesthetic effect shall be final and binding on the Subcontractor if consistent with the intent expressed in the Prime Contract.

§ 4.1.6 The Subcontractor shall pay for all materials, equipment and labor used in connection with the performance of this Subcontract through the period covered by previous payments received from the Contractor, and shall furnish satisfactory evidence, when requested by the Contractor, to verify compliance with the above requirements.

§ 4.1.7 The Subcontractor shall take necessary precautions to protect properly the work of other subcontractors from damage caused by operations under this Subcontract.

§ 4.1.8 The Subcontractor shall cooperate with the Contractor, other subcontractors, the Owner, and separate contractors whose work might interfere with the Subcontractor's Work. The Subcontractor shall participate in the preparation of coordinated drawings in areas of congestion, if required by the Prime Contract, specifically noting and advising the Contractor of potential conflicts between the Work of the Subcontractor and that of the Contractor, other subcontractors, the Owner, or separate contractors.

§ 4.2 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 4.2.1 The Subcontractor shall give notices and comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on performance of the Work of this Subcontract. The Subcontractor shall secure and pay for permits, fees, licenses and inspections by government agencies necessary for proper execution and completion of the Subcontractor's Work, the furnishing of which is required of the Contractor by the Prime Contract.

§ 4.2.2 The Subcontractor shall comply with Federal, state and local tax laws, social security acts, unemployment compensation acts and workers' compensation acts insofar as applicable to the performance of this Subcontract.

§ 4.3 SAFETY PRECAUTIONS AND PROCEDURES

§ 4.3.1 The Subcontractor shall take reasonable safety precautions with respect to performance of this Subcontract, shall comply with safety measures initiated by the Contractor and with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities for the safety of persons and property in accordance with the requirements of the Prime Contract. The Subcontractor shall report to the Contractor within three days an injury to an employee or agent of the Subcontractor which occurred at the site.

§ 4.3.2 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor's Sub-subcontractors or anyone directly or indirectly

employed by them, the Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other subcontractors and other employers on the site.

§ 4.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a hazardous material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Subcontractor, the Subcontractor shall, upon recognizing the condition, immediately stop Work in the affected area and promptly report the condition to the Contractor in writing. When the material or substance has been rendered harmless, the Subcontractor's Work in the affected area shall resume upon written agreement of the Contractor and Subcontractor. The Subcontract Time shall be extended appropriately and the Subcontract Sum shall be increased in the amount of the Subcontractor's reasonable additional costs of demobilization, delay and remobilization, which adjustments shall be accomplished as provided in Article 5 of this Agreement.

§ 4.3.4 The Subcontractor shall indemnify the Contractor for the cost and expense the Contractor incurs (1) for remediation of a material or substance brought to the site and negligently handled by the Subcontractor or (2) where the Subcontractor fails to perform its obligations under Section 4.3.3, except to the extent that the cost and expense are due to the Contractor's fault or negligence.

(Paragraph deleted)

§ 4.4 CLEANING UP

§ 4.4.1 Subcontractor shall maintain at all times, a clean, safe work site so as not to present hazards and safety concerns. Subcontractor is responsible for maintaining its work areas such that they are clean, orderly and free from hazards and debris. Contractor may upon 24 hours notice clean up Subcontractor's work site(s) and charge the direct and indirect costs thereof to Subcontractor or in the event it is difficult to determine whose debris, etc., is being removed, Contractor shall make a reasonable allocation of the direct and indirect costs among the applicable subcontractors and charge the Subcontractor its reasonable share. Upon completion of the Work, Subcontractor shall remove all its tools, materials, rubbish, debris and other articles from the work site and shall leave its portion of the Work and the area occupied or used by it broom clean. Should it fail to take prompt action to this end, the Owner or Contractor (at its option and without waiver of such other rights as it may have) may on ten (10) days' notice treat them as abandoned property and shall charge Subcontractor the costs for removal of Subcontractor's tools, materials, rubbish, debris and other articles of property.

§ 4.4.2 As provided under Section 3.3.2, if the Subcontractor fails to clean up as provided in the Subcontract Documents, the Contractor may charge the Subcontractor for the Subcontractor's appropriate share of cleanup costs.

§ 4.5 WARRANTY

The Subcontractor warrants to the Owner, Architect, and Contractor that materials and equipment furnished under this Subcontract will be of good quality and new unless the Subcontract Documents require or permit otherwise. The Subcontractor further warrants that the Work will conform to the requirements of the Subcontract Documents and will be free from defects, except for those inherent in the quality of the Work the Subcontract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Subcontractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Subcontractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect and Contractor, the Subcontractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 4.6 INDEMNIFICATION

§ 4.6.1 (a) The Subcontractor shall be solely responsible for any and all injuries to persons (including, without limitation, death) and all damage to property (including loss of use thereof) resulting from or arising out of any act or omission or any negligence or carelessness on the part of the Subcontractor, its employees, sub-subcontractors or agents in relation to this Subcontract or the Subcontract Work hereunder. In addition to any liability or obligation of the Subcontractor to Sciamé (or, if the prime contract so provides, to Owner) relating to indemnification (whether pursuant to any other provision of this Subcontract or by statute or otherwise), the Subcontractor shall defend with counsel acceptable to Sciamé, indemnify and hold harmless Sciamé, Owner, such other persons or entities as Sciamé or Owner may identify in writing and their respective directors, officers, employees, agents, subsidiaries and affiliates

(each an "Indemnitee" and collectively the "Indemnitees") to the fullest extent permitted by law, from any and all liabilities, damages, expenses (including reasonable attorneys' and consultants' fees), disbursements and costs (including court costs) to which any or all of them may be subject by reason of any claim or suit alleging personal injury and/or property damage as described in the preceding sentence. This indemnification obligation encompasses (1) full indemnity in the event of liability imposed against the Indemnitees without negligence and solely by reason of statute, operation of law or otherwise; and (2) partial indemnity in the event of any actual negligence on the part of the Indemnitees either causing or contributing to the underlying claim, in which case indemnification will be limited to any liability imposed over and above that percentage attributable to actual fault whether by statute, by operation of law, or otherwise. Where partial indemnity is provided hereunder, costs, professional fees, attorneys' fees, expenses and disbursements shall be indemnified on a pro rata basis.

(b) In claims against any Indemnitee by an employee of the Subcontractor, a sub-subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under subparagraph (a) shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor or a sub-subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

(c) The Subcontractor shall procure commercial general liability insurance coverage in accordance with the insurance requirements of this Subcontract to provide defense and indemnification to Sciame, Owner and the other Indemnitees (who shall be designated as additional insureds under the pertinent policy or policies of insurance on a primary and non-contributory basis pursuant to Article 13) in the event of such claims or suits; provided, however, that the indemnification obligation under subparagraph (a) shall exist whether or not the Subcontractor has obtained and/or maintained such insurance coverage. In the event (1) that Subcontractor fails to obtain or maintain the required insurance and/or (2) that any insurance carrier(s) of the Subcontractor fails or refuses (whether due to late notice, purported exclusions from coverage or otherwise) to timely and completely assume, without reservation of rights, the defense and indemnification of Sciame, Owner or any other Indemnitee, then the entirety or any portion of any monies due or to become due to the Subcontractor under this Subcontract or other security acceptable to the respective Indemnitee(s), as shall or may be considered necessary by the respective Indemnitee(s), may be retained by Sciame (or, if the Prime Contract so provides, by Owner) until all such suits or claims shall have been conclusively resolved whether by settlement or other disposition, and evidence to that effect furnished to the reasonable satisfaction of the respective Indemnitee(s). Further, Sciame shall be entitled to deduct the following from any monies due to the Subcontractor (or from any security put up by the Subcontractor): (i) all costs and expenses, including attorneys' fees, incurred in pursuing any claim against Subcontractor and/or Subcontractor's insurance carrier(s) for defense and/or indemnification; (ii) all deductibles required to be expended by reason of the circumstances described in (1) and/or (2) of this subparagraph; and (iii) any increase in insurance premiums actually incurred or reasonably likely to be incurred by reason of the circumstances described in (1) and/or (2) of this subparagraph.

(d) The Subcontractor shall defend, with counsel acceptable to Sciame, and shall indemnify and hold harmless Sciame, Owner and all other Indemnitees, to the fullest extent permitted by law, from any and all liabilities, damages and expenses to which any or all of them may be subjected by reason of any claim or suit for the alleged infringement of any copyright, trademark, trade dress, patent or any other proprietary right arising out of the use of any product, name, process, formula, invention, work or other tangible or intangible intellectual property of any kind furnished by the Subcontractor or any of its sub-subcontractors or suppliers in the performance of this Subcontract.

(e) For all purposes of this Article, attorneys' and consultants' fees, court costs, expenses and disbursements shall be deemed to include those fees, costs, expenses and disbursements incurred in defending any underlying claim and those fees, costs, expenses and disbursements incurred in connection with the enforcement of this indemnity obligation.

(f) The provisions of this Article shall survive expiration or any termination of this Subcontract.

(Paragraphs deleted)

§ 4.7 SUPERSEDING ARTICLE 35-E OF GENERAL BUSINESS LAW OF STATE OF NEW YORK

It is the intention of the parties that, to the extent not prohibited by Article 35-E of the General Business Law of the State of New York, commonly known as the "Prompt Payment Act" ("Prompt Payment Act"), or otherwise expressly provided in the Subcontract, the terms and conditions of the Subcontract shall supersede the provisions of the Prompt Payment Act in their entirety and accordingly, (i) the Prompt Payment Act shall not apply to the Subcontract and (ii)

the absence of a provision in the Subcontract covering any matter addressed in the Prompt Payment Act shall not be construed to mean that the parties have agreed that the applicable provision in the Prompt Payment Act shall govern with respect to that matter.

§ 4.8 REMEDIES FOR NONPAYMENT

If the Contractor does not pay the Subcontractor through no fault of the Subcontractor undisputed sums properly due hereunder,, within fourteen days from the time payment should be made as provided in this Agreement, the Subcontractor may, without prejudice to any other available remedies, upon fourteen additional days' written notice to the Contractor, stop the Work of this Subcontract until payment of such undisputed sums has been received.

ARTICLE 5 CHANGES IN THE WORK

§ 5.1 Contractor, without invalidating the Subcontract, may, at any time order or require changes in Subcontractor's Work consisting of additions, deletions or other revisions, with the Subcontract Price being adjusted accordingly ("Change Order"). If not otherwise provided for expressly in writing, the provisions of the Prime Contract with respect to pricing, approval and performance of Change Order work or additions, deletions and modifications to the Work shall be applicable to this Subcontract and fully binding upon the Subcontractor. Subcontractor will render bills for any additional work at such times and in such form and quantity as directed by Contractor. For the purpose of checking such bills and any other Claims and determining the correctness of the charges, Subcontractor shall permit Contractor to audit Subcontractor's books and hereby authorizes Contractor to check directly with the suppliers of labor and materials to confirm the accuracy and correctness of the charges for labor, materials or other items appearing in the Subcontractor's bill to Contractor. Any modification or change of the Subcontract providing for the omission of work shall be computed, and the value, when so determined, shall be deducted from the Subcontract Price as herein provided.

(Paragraph deleted)

§ 5.1.1 For changes in the Prime Contract that have been initiated by the Owner, the Subcontractor shall promptly submit any Claims it may have for the adjustment of price, schedule or other provisions of this Subcontract to the Contractor in writing, and at least ten (10) days before the Contractor must make such claim to Owner as required by the Prime Contract, to allow the Contractor to process such Claims with the Owner within the time and in the manner provided for in the Prime Contract. Contractor shall be liable to Subcontractor for such changes to the same extent, but only to the extent, that the Owner is liable and pays Contractor for the same insofar as it concerns Subcontractor's work. The mark-up for profit and overhead on all Change Order work ordered by the Owner and performed by the Subcontractor shall be as provided in the Prime Contract. However, if mark-up is not addressed, profit and overhead shall be equally divided between the Contractor and Subcontractor.

§ 5.1.2 The Subcontractor shall receive no extra compensation of any kind whatsoever, regardless of whether the same was ordered by Contractor or any of its representatives, unless such extra compensation is authorized by order given in writing and signed by the Project Manager of Contractor, or other duly authorized representative of Contractor, or Subcontractor has properly preserved its rights.

(Paragraph deleted)

§ 5.1.3 Prior to the issuance of any Change Order, Contractor may require Subcontractor to furnish a detailed itemization showing the difference in value of the work, labor, services, and materials changed by the proposed Change Order. If an agreement as to a monetary allowance or other term in the Change Order cannot be reached, Subcontractor, upon written direction from Contractor, shall perform the Work on a "time and materials" basis or otherwise to the extent, if any, that Contractor is so paid under the Prime Contract, under a reservation that the final adjustment in price shall be reserved until final completion of the Project. The monetary amount for the performance of any such Change Order work shall not exceed the allowances set forth in Subcontractor's prior detailed itemization.

§ 5.1.4 The failure of Subcontractor to immediately commence performance of any Change Order when so directed in writing by Contractor, regardless of whether agreement has been reached on the adjustment of the Subcontract Price, shall constitute a material breach of the Subcontract. Subcontractor may reserve its rights to extra compensation, if same has not been agreed upon at the time of Contractor's direction, by delivering to Contractor written notice of a Claim therefor, pursuant to this §5.1.4 prior to the commencement of any extra work.

§ 5.1.5 Any extension of time needed by Subcontractor as a result of a proposed alteration, addition or change in its Work shall be provided for in and by such Change Order. There shall be no other monetary or time allowance, direct or indirect, single or cumulative, to Subcontractor other than as specifically provided in such Change Order.

§ 5.1.6 Where unit prices are stipulated in the Subcontract, all adjustments, whether increases or decreases, shall be made in accordance with said units unless otherwise provided by the Prime Contract. Said units shall be deemed to include all general and administrative expenses, overhead, profit, supervision, extended performance cost factors, and all other direct and indirect expenses.

§ 5.1.7 The issuance of any Change Order and payment thereof, prior to completion and acceptance of the Project, shall not preclude Contractor from questioning the validity thereof and recouping payment therefor, if it is shown the Change Order work was in fact neither extra nor additional work under the terms of the Subcontract.

§ 5.1.8 No Change Order shall vary or affect the terms, conditions and provisions of the Subcontract unless specifically set forth in the Change Order.

§ 5.1.9 Unless otherwise agreed in writing signed by Contractor and Subcontractor, if a) Contractor directs Subcontractor to perform any changed work which is not payable to Contractor as extra work by the Owner, and b) Contractor directs Subcontractor to perform said work on a time and materials basis, such work will be payable as follows (unless the provisions of the Prime Contract dictate otherwise, in which event those provisions shall govern):

§ 5.1.9A Labor:

.1 WAGES: Direct field labor only up to and including the rank of working foreman;

.2 PAYROLL TAXES (if applicable): Actual cost. In determining actual costs, the statutory limitations for FICA, State Unemployment Insurance, and Federal Unemployment Insurance must be taken into account;

.3 UNION BENEFITS (if applicable): Actual cost per union agreements;

.4 INSURANCE: Actual net additional cost of insurance paid as a result of the extra work. In determining the actual cost of insurance, the Contractor will be given the benefit of premium discounts, experience modifications, etc. There will be no reimbursement for flat rate policies such as auto insurance, etc. In the event the Owner provides an Owner Controlled Insurance Plan ("OCIP") further information will be provided to Subcontractor.

§ 5.1.10 Equipment: Payment for equipment shall be limited to actual working time and limited to the value or rates of equipment used by the Subcontractor of suitable size and capacity required for the work to be performed. In the event the Subcontractor elects to use equipment of greater size, capacity, value or rental value, payment will be made at the rate applicable for suitable equipment.

§ 5.1.11 The rental rates for equipment shall be as follows:

.1 OWNED: Rental charged shall be as agreed upon between Contractor and Subcontractor but shall in no case exceed the monthly rates in the then-current edition of the Rental Rate Blue Book, as published by Equipment Watch, located at 1735 Technology Drive, San Jose, CA 95110 in use at the commencement of the extra work. Where a piece of equipment used by the Subcontractor is not listed in this publication, the rental rate shall be agreed upon by the Contractor and Subcontractor prior to its use on the work.

.2 LEASED: Invoice cost, provided the Contractor has approved the rates charged in advance.

§ 5.1.12 Material and installed equipment ("Material"): Actual net cost less salvage value. The Contractor will be given the benefit of trade discounts. Material charges must be substantiated by paid vendor's invoices and/or bills of sale.

§ 5.1.13 Overhead and profit: Ten Percent (10%) of Labor and Material for overhead and Five Percent (5%) for profit. If agreed to in writing, overhead and profit will be paid on the premium portion of overtime; however, overhead or

profit will not be paid on benefits relating to premium time. No overhead or profit will be added for owned or leased equipment. No additional overhead and profit will be paid for work performed by sub- subcontractors, unless otherwise required by the Federal Acquisition Regulations, in which case sub-subcontractor's overhead and profit shall not exceed 5%.

§ 5.1.14 General:

§ 5.1.14A The ten percent (10%) for overhead and five percent (5%) for profit includes, but is not limited to, home office general and administrative expenses, field supervision including superintendents, timekeeping, engineering, drafting, field office expense, small tools, general purpose equipment with an acquisition cost of less than \$500.00, and any other costs not specifically enumerated above.

§ 5.1.14B Subcontractor will deliver to the Contractor for Contractor's signature a daily time ticket showing the following:

- .1 Description: A complete description of the extra work and the Subcontract Work performed on that day.
- .2 Labor: Hours on the extra work by employee name and specific trade classification.
- .3 Equipment: Hours on the extra work by individual piece of equipment. This must include an adequate description including manufacturer, model number, capacity, etc.
- .4 Material: An adequate description showing the quantity and specific nature of each item of material furnished or installed as extra work or retrieved for salvage.

§ 5.1.15 The daily time ticket must be delivered to Contractor not later than noon on the day following the day on which the extra work was performed. Failure to strictly adhere to this time requirement will result in denial of payment for this work.

§ 5.1.16 All original invoices for extra work complete with the original signed daily time tickets, and material backup invoices from vendors, are to be sent to Contractor's main office, or to an address otherwise identified in writing by Contractor. An identical copy must be sent to Contractor's jobsite project office.

§ 5.1.17 The Subcontractor shall make all claims promptly to the Contractor for additional cost, extensions of time and (if permissible) damages for delays or other causes in accordance with the Subcontract Documents. A claim which will affect or become part of a claim which the Contractor is required to make under the Prime Contract within a specified time period or in a specified manner shall be made in sufficient time to permit the Contractor to satisfy the requirements of the Prime Contract. Such claims shall be received by the Contractor not less than two working days preceding the time by which the Contractor's claim must be made. Failure of the Subcontractor to make such a timely claim shall bind the Subcontractor to the same consequences as those to which the Contractor is bound.

ARTICLE 6 MEDIATION AND BINDING DISPUTE RESOLUTION

§ 6.1 With respect to any Claim of Subcontractor of a type or character not addressed elsewhere in this Subcontract, or of Contractor against Subcontractor: a) the interpretation of this Subcontract, including any alleged breach hereof, shall be governed by the laws of the State of New York; b) any action at law or equity commenced by Subcontractor against Contractor or its sureties (unless otherwise provided in the surety's bond or by statute), or by Contractor against Subcontractor or its sureties (unless otherwise provided in the surety's bond or by statute), on Claims or causes of action arising under this Subcontract, shall be filed, and venue shall lay, exclusively in a court of general jurisdiction sitting within the State of New York and the County of New York; c) Subcontractor waives any claim for special, incidental, consequential or penal damages; d) the parties hereto hereby submit to the jurisdiction of said Court in all such matters; and, e) to the fullest extent permitted by law, the Parties hereto hereby waive the right to trial by jury. In any such action commenced by Subcontractor, it must, as a condition precedent to being granted any relief or remedy against Contractor or Contractor's sureties, plead and prove by way of documentation attached to its initial pleading or identified and incorporated therein:

- .1 that with respect to each separate item of Claim or damage, it has complied with all the notice provisions of this Subcontract applicable to such item of Claim or damage;

AIA Document A401™ – 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING:** This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.

User Notes:

(1180134772)

WCC 000852

.2 that it has in good faith attempted to negotiate a resolution of each separate item of Claim or damage; and

.3 that it has in good faith engaged in mediation in accordance with the Construction Industry Rules of the American Arbitration Association, and the mediator has declared in writing an impasse or it is otherwise demonstrable that the mediation has failed.

(Paragraphs deleted)

§ 6.2

(Paragraphs deleted)

Anything in § 6.1 notwithstanding, at the Contractor's sole option, any Claim by Subcontractor for which the dollar amount is equal to or less than \$200,000.00 (exclusive of interest and costs) shall be heard and determined before one (1) arbitrator in accordance with the Construction Industry Rules of the American Arbitration Association, and judgment upon the Award rendered thereon may be entered in any court of competent jurisdiction. The Arbitrator shall not have the power to apportion the costs and fees of the arbitration, which shall be borne as incurred; nor shall the Arbitrator have any power to award counsel fees or exemplary damages.

(Paragraphs deleted)

ARTICLE 7 SUSPENSION OR ASSIGNMENT OF THE SUBCONTRACT

§ 7.1 SUSPENSION BY THE CONTRACTOR FOR CONVENIENCE

§ 7.1.1 The Contractor may, without cause, order the Subcontractor in writing to suspend, delay or interrupt the Work of this Subcontract in whole or in part for such period of time as the Contractor may determine. In the event of suspension ordered by the Contractor, the Subcontractor shall be entitled to an equitable adjustment of the Subcontract Time and Subcontract Sum.

§ 7.1.2 An adjustment shall be made for increases in the Subcontract Time and Subcontract Sum, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent that

- .1 performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Subcontractor is responsible; or
- .2 an equitable adjustment is made or denied under another provision of this Subcontract.

§ 7.2 ASSIGNMENT OF THE SUBCONTRACT Subcontractor may not assign this Agreement without the express written consent of Contractor, which consent may be unreasonably withheld. Contractor may assign this Agreement without Subcontractor's consent. If any such assignment is made or given by Subcontractor, without prior written consent, the same shall be absolutely void and of no effect, and Contractor, in addition to any other rights under this Agreement, shall have the right, at its option, to terminate this Subcontract for default and shall thereafter be under no further obligations to Subcontractor. Without limiting the generality of the foregoing, Subcontractor acknowledges and agrees that Construction Manager shall have the right to assign the Subcontract to Owner or any party designated by Owner, and following any such assignment to Owner or such designee, then Owner or such designee, as the case may be, shall have the right to assign this Subcontract to any other party designated by Owner (each such assignee, a "Subcontract Assignee"), and upon and after any such assignment Subcontractor shall render full performance under the Subcontract to the Subcontract Assignee and the Subcontract Assignee shall succeed to all of Construction Manager's rights under the Subcontract and shall perform all of Construction Manager's obligations under the Subcontract arising from and after such assignment. Upon an assignment of the Subcontract to Owner, Subcontractor shall observe and comply with all instruments, requests, requirements, demands or other directives issued or made by the Owner's project manager on behalf of Owner in connection with the Work or the Subcontract, unless otherwise instructed by Owner. In the event the Subcontract Documents contain a provision pursuant to which the Subcontract is deemed terminated upon a termination of the Prime Contract, whether for convenience or upon default, or entitling Construction Manager to terminate the Subcontract upon any such termination of the Prime Contract, and the Prime Contract is terminated but Subcontractor receives a notice from Owner that an assignment of the Subcontract to Owner has been effectuated, whether before or after any such deemed or exercised termination of the Subcontract, then such deemed or exercised termination of the Subcontract shall be deemed null and void *ab initio*, and the Subcontract shall remain in full force and effect as so assigned.

(Paragraphs deleted)

ARTICLE 8 THE WORK OF THIS SUBCONTRACT

The Subcontractor shall execute the following portion of the Work described in the Subcontract Documents, including all labor, materials, equipment, services and other items required to complete such portion of the Work, except to the extent specifically indicated in the Subcontract Documents to be the responsibility of others.

(Paragraph deleted)

Refer to trade scope checklist, drawings, specifications and addenda.

ARTICLE 9 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 9.1 Subcontract Time is the period of time, including authorized adjustments, allotted in the Subcontract Documents for Substantial Completion of the Work described in the Subcontract Documents. The Subcontractor's date of commencement is the date from which the Subcontract Time of Section 9.3 is measured; it shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Contractor.

THE COMMENCEMENT DATE WILL BE FIXED IN A NOTICE TO PROCEED.

§ 9.2 Unless the date of commencement is established by a notice to proceed issued by the Contractor, or the Contractor has commenced visible Work at the site under the Prime Contract, the Subcontractor shall notify the Contractor in writing not less than five days before commencing the Subcontractor's Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

§ 9.3 The Work of this Subcontract shall be substantially completed Per Schedule (exhibit L)

Portion of Work	Substantial Completion
Glazed Terracotta Rain Screen	10/05/15
Curtain Wall	07/07/16
Exterior Metal Panel	12/21/15
Fin Glass Assembl	02/07/16
Channel Glass	12/14/15

, subject to adjustments of this Subcontract Time as provided in the Subcontract Documents.

AIA Document A401™ – 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING:** This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.

User Notes:

WCC 000854

(1180134772)

In the event the Subcontractor fails to achieve either Substantial Completion by the date or within the time specified, as the case may be, in the approved schedule, or any approved extension thereof, the Subcontractor shall pay Liquidated Damages in the amount of \$2,000 per day. Liquidated Damages will be assessed for each calendar day after such date or time until the Subcontractor achieves the respective Substantial Completion.

REFER TO RIDER "B" FOR TERMS OF LIQUIDATED DAMAGES

§ 9.4 With respect to the obligations of both the Contractor and the Subcontractor, time is of the essence of this Subcontract.

§ 9.5 No extension of time will be valid without the Contractor's written consent after claim made by the Subcontractor in accordance with Section 5.1.17.

ARTICLE 10 SUBCONTRACT SUM

§ 10.1 The Contractor shall pay the Subcontractor in current funds for performance of the Subcontract the Subcontract Sum of Thirty Two Million Five Hundred Thousand and Zero Cents (\$ 32,500,000.00), subject to additions and deductions as provided in the Subcontract Documents.

§ 10.2 The Subcontract Sum is based upon the following alternates, if any, which are described in the Subcontract Documents and have been accepted by the Owner and the Contractor:

See alternates in bid booklet

CCIP - \$3,318,329.00

P&P Bond - 1% - \$204,432.00

(Table deleted)

(Paragraphs deleted)

§ 10.4 Allowances included in the Subcontract Sum, if any:

(Paragraph deleted)

Item

Price

NONE LISTED

ARTICLE 11 PROGRESS PAYMENTS

§ 11.1 Progress Payments shall be made to Subcontractor, pursuant to payment applications to be submitted by Subcontractor to Contractor, for the value of Subcontractor's Work completed during the prior month ("Payment Period") as estimated by Subcontractor and Contractor using the Schedule of Values, less 10% retainage to be withheld by Contractor until Final Payment is due and payable, conditioned, however, upon the Owner's approval and payment to Contractor for such Subcontractor's Work. Upon Subcontractor's achieving completion of 50% of its Work, as certified by the Architect, and upon written approval by the Owner, which may be withheld in Owner's sole discretion, the retainage may be reduced to 5%. Such progress payments by the Owner to the Contractor shall be a condition precedent to Subcontractor's entitlement to progress payments unless the Owner's failure to make payment is conclusively determined to be for reasons entirely unrelated to the quantity, quality or timeliness of Subcontractor's Work or its failure to satisfy obligations under this Subcontract. Accordingly, except only as may be provided to the contrary by statute not subject to waiver, Subcontractor hereby assumes the risk of Owner's nonpayment or delayed progress payments to Contractor for Subcontractor's Work, without recourse to the Contractor (but such shall not operate as a bar to Subcontractor's right to serve and file a Notice Under Mechanic's Lien Law). When the quantities approved by the Owner for payment consist of items of Work on which Subcontractor has performed only a portion of the Work approved for payment, then quantities of Work for which Subcontractor shall receive payment shall be determined by Contractor. Unless otherwise provided by law or the Prime Contract, payment to Subcontractor shall be made not later than thirty (30) days after Contractor receives payment from Owner. Notwithstanding, Contractor shall have the right to withhold any payment if, based upon reasonable evidence, it believes in good faith that Subcontractor cannot and will not complete its Work and that in such event the cost to Contractor to complete same will exceed the unexpended balance of the Subcontract Price and for such other reasons as set forth in Rider B.

§ 11.2 Upon the partial or entire disapproval by the Contractor of the Subcontractor's application for payment, the Contractor shall provide written notice to the Subcontractor. When the basis for the disapproval has been remedied, the Subcontractor shall be paid the amounts withheld.

§ 11.3 SUBSTANTIAL COMPLETION

When the Subcontractor's Work or a designated portion thereof is substantially complete and in accordance with the requirements of the Prime Contract, the Contractor shall, upon application by the Subcontractor, make prompt application for payment for such Work. Within 30 days following issuance by the Architect of the certificate for payment covering such substantially completed Work, the Contractor shall, to the full extent allowed in the Prime Contract, make payment to the Subcontractor, deducting any portion of the funds for the Subcontractor's Work withheld in accordance with the certificate to cover costs of items to be completed or corrected by the Subcontractor. If the Prime Contract does not allow for a full release of retainage, then such payment shall be an amount which, when added to previous payments to the Subcontractor, will reduce the retainage on the Subcontractor's substantially completed Work to the same percentage of retainage as that on the Contractor's Work covered by the certificate.

(Paragraphs deleted)

ARTICLE 12 FINAL PAYMENT

§ 12.1 Final payment by Construction Manager to Subcontractor (including retainage being held under the Subcontract) shall not become due and payable until all of the following express conditions precedent have been satisfied in full: (a) the completion and acceptance of the Work by Construction Manager; (b) provision by Subcontractor of evidence satisfactory to Construction Manager that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes or other items performed, furnished, or incurred for or in connection with the Work; (c) complete and full satisfaction of all claims, demands and disputes, and all obligations and responsibilities of Subcontractor, arising out of or related to the Subcontract, including those as between Construction Manager and Subcontractor as well as those between Subcontractor and any third party; (d) the full performance by Subcontractor of all its obligations under the Subcontract (in addition to completion of the Work); (e) the receipt by Construction Manager from Subcontractor and each of its principal sub-subcontractors, of a Final affidavit and Release of Claims in such form as Construction Manager or Owner may prescribe; (f) the receipt by Construction Manager of all of Subcontractor's as-built drawings; (g) the receipt by Construction Manager of all guaranties and warranties required to be delivered by Subcontractor under the Subcontract and the other Contract Documents; (h) the receipt by Construction Manager of all certificates of completion and other certificates, permits, licenses, approvals and authorizations required by any governmental authority in connection with the Work; (i) the receipt by Construction Manager of any consents of Subcontractor's surety, if any, that may be required for final payment; and (j) the receipt by Construction Manager of satisfactory evidence that each event which had occurred by reason of which Construction Manager was withholding sums due to Subcontractor has been cured or no longer exists. The acceptance of final payment by Subcontractor shall constitute a full and final release of any and all Claims which Subcontractor has against Contractor except for Subcontractor's Claims which have been properly preserved and which are in dispute with the Owner and which have not been otherwise waived or resolved.

(Paragraph deleted)

ARTICLE 13 INSURANCE AND BONDS

§ 13.1 The Subcontractor shall purchase and maintain insurance of the following types of coverage and limits of liability as will protect the Subcontractor from claims that may arise out of, or result from, the Subcontractor's operations and completed operations under the Subcontract:

Type of insurance or bond

Limit of liability or bond amount (\$0.00)

AIA Document A401™ – 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.

User Notes:

WCC 000856

(1180134772)

Contractor to be enrolled in CCIP – See RFP Bid Booklet for limits.

§ 13.2 Coverages, written on an occurrence basis, shall be maintained without interruption from the date of commencement of the Subcontractor's Work until the date of final payment and termination of any coverage required to be maintained after final payment to the Subcontractor, and, with respect to the Subcontractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Prime Contract.

§ 13.3 Certificates of insurance acceptable to the Contractor shall be filed with the Contractor prior to commencement of the Subcontractor's Work. These certificates and the insurance policies required by this Article 13 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor. If any of the foregoing insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment as required in Article 12. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Subcontractor with reasonable promptness according to the Subcontractor's information and belief.

§ 13.4 The Subcontractor shall cause the commercial liability coverage required by the Subcontract Documents to include: (1) the Contractor, the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Subcontractor's negligent acts or omissions during the Subcontractor's operations; and (2) the Contractor as an additional insured for claims caused in whole or in part by the Subcontractor's negligent acts or omissions during the Subcontractor's completed operations.

§ 13.5 The Contractor shall furnish to the Subcontractor satisfactory evidence of insurance required of the Contractor under the Prime Contract.

§ 13.6 The Contractor shall promptly, upon request of the Subcontractor, furnish a copy or permit a copy to be made of any bond covering payment of obligations arising under the Subcontract.

§ 13.7 Performance Bond and Payment Bond:

(Paragraph deleted)

Bond type	Bond amount (\$0.00)	Bond delivery date	Bond form
N/A	N/A	N/A	N/A

§ 13.8 PROPERTY INSURANCE

§ 13.8.1 When requested in writing, the Contractor shall provide the Subcontractor with copies of the property and equipment policies in effect for the Project. The Contractor shall notify the Subcontractor if the required property insurance policies are not in effect.

§ 13.8.2 If the required property insurance is not in effect for the full value of the Subcontractor's Work, then the Subcontractor shall purchase insurance for the value of the Subcontractor's Work, and the Subcontractor shall be reimbursed for the cost of the insurance by an adjustment in the Subcontract Sum.

§ 13.8.3 Property insurance for the Subcontractor's materials and equipment required for the Subcontractor's Work, stored off site or in transit and not covered by the Project property insurance, shall be paid for through the application for payment process.

§ 13.9 WAIVERS OF SUBROGATION

The Contractor and Subcontractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Owner, the Architect, the Architect's consultants, separate contractors, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance provided under the Prime Contract or other property insurance applicable to the Work, except such rights as they may have to proceeds of such insurance held by the Owner. The Subcontractor shall require of the Subcontractor's Sub-subcontractors, agents and employees, by appropriate agreements, similar waivers in favor of the parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a

AIA Document A401™ – 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.

User Notes:

WCC 000857

(1180134772)

person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

ARTICLE 14 TEMPORARY FACILITIES AND WORKING CONDITIONS

§ 14.1 The Contractor shall furnish and make available at no cost to the Subcontractor the Contractor's temporary facilities, equipment and services, except as noted below:

Temporary Facility, Equipment or Service	Cost, if any (\$0.00)
REFER TO BID BOOKLET	

§ 14.2 Specific working conditions:

(Paragraph deleted)

All work of this contract to be in accordance with contract drawings and specs, Remedial Action Work Plan and the Project Labor Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Subcontract to a provision of another Subcontract Document, the reference refers to that provision as amended or supplemented by other provisions of the Subcontract Documents.

§ 15.2 Payments due and unpaid under this Subcontract shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Paragraph deleted)

N/A

§ 15.3 Retainage and any reduction thereto are as follows:

See Section 11.1

(Paragraph deleted)

ARTICLE 16 ENUMERATION OF SUBCONTRACT DOCUMENTS

§ 16.1 The Subcontract Documents, except for Modifications issued after execution of this Subcontract, are enumerated in the sections below.

§ 16.1.1 This executed AIA Document A401-2007, Standard Form of Agreement Between Contractor and Subcontractor, as modified

§ 16.1.2 The Prime Contract, consisting of the Agreement between the Owner and Contractor dated as first entered above and the other Contract Documents enumerated in the Owner-Contractor Agreement. Subcontractor expressly acknowledges that it has had sufficient time to review the terms and conditions of the Prime Contract.

§ 16.1.3 The following Modifications to the Prime Contract, if any, issued subsequent to the execution of the Owner-Contractor Agreement but prior to the execution of this Agreement:

Modification	Date
N/A	

§ 16.1.4 Additional Documents, if any, forming part of the Subcontract Documents:

1. Bid Proposal Form, including:
 - a. Pricing Breakouts
 - b. Acknowledgement of all Addenda
 - c. Integrity Affidavit

AIA Document A401™ - 2007. Copyright © 1915, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1967, 1972, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 10:22:38 on 12/11/2013 under Order No.6110728933_1 which expires on 04/06/2014, and is not for resale.

User Notes:

WCC 000858

(1180134772)

- d. Trade Scope Checklist, dated 2/25/13
- e. Site Logistics Plans
- f. Drawings & Specifications List, dated 4/1/13
- 2. Bond Requirements
- 3. NY State Procurement Lobbying Act Forms
- 4. Bidder's Self-Performance Plan and Identification of Subcontractors
- 5. M/WBE and EEO Forms
- 6. Financial and Safety Qualification Forms
- 7. New York State Vendor Responsibility Forms
- 8. Vendor Disclosure Forms
- 9. Project Schedule
- 10. F.J. Sciam Construction Co., Inc. General Requirements Rider 'A'
- 11. F.J. Sciam Construction Co., Inc. General Requirements Rider 'B'
- 12. F.J. Sciam Construction Co., Inc. General No Tolerance Policy
- 13. Subcontractor Safety Requirements
- 14. Project Labor Agreement
- 15. Project Insurance Requirements
- 16. Noise Mitigation Plan
- 17. FJSC Safety Program
- 18. CCIP Manual

(Paragraph deleted)

Notwithstanding any reference herein to AIA Document A201-2007 (General Conditions of the Contract for Construction), that document is not part of the Subcontract Documents.

This Agreement entered into as of the day and year first written above.


CONTRACTOR (Signature)

Michael Porcelli Executive Vice President


SUBCONTRACTOR (Signature)

Steven Ortiz President
(Printed name and title)

2

Received

OCT 08 2013

By:

Whitestone Construction Corp.

WCC 000860

F.J. SCIAME CONSTRUCTION CO., INC.

Updated: September 3, 2010

RIDER-A INCLUDES THE ATTACHED TRADE SPECIFIC CHECKLIST

PROJECT: New York City College of Technology - New Academic Building

This Document (Supplemental Rider) and the attached Trade Specific Check List shall form an Integral Part of the Contract.

Your scope of work is all work of your trade (Work) called for to be performed in accordance with all Contract Documents, including but not limited to the following:

1. Attached Checklist, as agreed upon during your bid interview(s). Results and agreements of bid scope review and/or interview.
2. All Subcontractors and their subcontractors shall institute and abide by a **ZERO TOLERANCE POLICY** with regard to Discrimination and Sexual Harassment. (See FJSC's Zero Tolerance Policy attached)
3. This Project is (circle one): Tax Exempt/Capital Improvement/ Maintenance . The Subcontractor shall be responsible for the payment of all applicable taxes.
4. This Subcontractor agrees to furnish to the Contractor, prior to commencement of the Subcontract Work, a typewritten list of the names, addresses and telephone numbers of all Sub-subcontractors with whom it intends to enter into Subcontracts for the execution of portions of the work of its trade, and agrees that no substitutions shall be made in the employment of Sub-subcontractors without written approval having first been obtained through the Owner and/or the Contractor.
5. This Subcontractor shall furnish copies of all Sub-subcontracts and Supply contracts promptly to the Contractor upon request.
6. Upon the award of your subcontract, prepare immediately all Materials Safety Data Sheets (MSDS) forms for the work of your trade and submit same, along with your Company Project Specific Safety Program, promptly to the Contractor's office.
7. The words "provide" and "include" in this Rider shall mean "furnish, deliver and install" unless otherwise noted in this Rider.
8. Demolition contractors are responsible for all removal and disposal of demolished and discarded materials, as well as protection in the street at all times during debris removal. Roofer shall remove all roofing debris off site. Excavation Contractor shall remove all surplus soil, rock and other materials from site. Furniture and Appliance packaging shall be removed from site by delivering party. Concrete contractor, structural steel contractor and miscellaneous iron contractor must include protection in the street at all times during their respective deliveries. This includes using appropriate procedures when washing out concrete truck, tools and equipment so as not to leave sediment on the street, sidewalk or to fill drain basins.
9. All work applicable to your trade shown and/or described on any of the Contract Documents is included in your scope of work. It is also understood that, should individual requirements of the Contract Documents conflict, the most restrictive requirement shall prevail.
10. It is your responsibility to enforce strict discipline, good order and appropriate conduct among the workmen carrying out the Work employed by you or your Sub-subcontractors. You shall not permit the employment of persons not fit or skilled in the tasks assigned to them to perform the Work.
11. Keep all your workmen, employees and Sub-subcontractors away from the on-going operations of Adjacent Businesses and Residences.
12. Comply in full with all requirements of the Project Rules as may be distributed by the Sciame Field Superintendent.
13. Coordinate your deliveries and materials' storage with the Contractor, as on-site storage space may be limited.

14. Schedule your deliveries and conduct your operations so as to minimize interference with operations of Adjacent Businesses.
15. Schedule your deliveries with the Job Superintendent. All deliveries that require the use of the hoist and/or freight car shall be scheduled and approved by the Sciamé Superintendant as to date, time and time required.
16. Schedule your deliveries and conduct your work operations in such a manner as to permit full operations of all portions of the project not scheduled for construction and/or demolition activities.
17. All In-House deliveries to be made by Union Drivers, Common Carrier and all other deliveries shall be by Unionized Carriers and Drivers.
18. Coordinate all work of your trade with the work of other trades. It is understood that you will be required to collaborate with the other trades on the job in order to permit simultaneous installation of the work, as well as to coordinate the setting of other trades' work that passes through this contractor's work.
19. Coordinate all work of your trade with the work of Subcontractors hired directly by the Owner.
20. It is understood that the Owner may, at any time, occupy or use any completed or partially completed space(s) or systems of the Work.
21. Attend meetings with all concerned parties as required to review and resolve coordination issues and conflicts related to the work of your trade.
22. It is understood that if you perform any of your Work without the approved Contract Documents and/or approved shop drawings, cuts, samples or product data for such portions of the Work, all such work is performed at your sole and exclusive risk and you shall bear all costs required to conform all such work to the approved Contract Documents.
23. It is your responsibility to provide all logistics and staging required to furnish, deliver and install all work of your trade. It is understood that this Subcontractor has reviewed the site logistics plan (available at the bid interview) which quantifies the exterior scaffolding which will be provided during the course of the project. Any additional ladders, scaffolding, or man lifts required for installation of your work are the sole responsibility of this subcontractor.
24. It is your responsibility to access all spaces within the limits of the work areas as required to conduct all work operations of your trade. The above shall be performed at no additional cost to the Owner and Contractor.
25. Provide all union labor for the work of your trade (shop, field, deliveries to job site and removals from job site.) Subcontractor is responsible for, and shall indemnify Contractor against all liability for, all wages and benefits required to be paid under any law or collective bargaining agreement to or for any laborer performing any Subcontract Work, whether employed directly by Subcontractor or by any sub-subcontractor at any tier.
26. Perform all work of your trade in full conformance with all federal, state, county and local laws and regulations governing such work. Conform to all applicable Codes.
27. It is your responsibility to provide all Scaffolding required to perform the work of your trade. Dismantle and remove your Scaffolding once no longer required. It is also your responsibility to move the levels of planking and bicycles on any Common or Shared Scaffolding, should you require to reach other levels to perform the work of your trade. (Note: This section does not apply to the Scaffolding Subcontractor.)
28. Should this Subcontractor elect to use any Scaffolding provided by the Contractor or as made available by other subcontractors, you shall prepare and submit a **Special Scaffolding Indemnification Agreement** in form and substance reasonably acceptable to Sciamé. Use of any scaffolding as provided by others shall constitute an immediate acceptance of the agreement, even if the form has not yet been completed.
29. Provide all rigging as required to perform the work of your trade.
30. Manage utility consumption so as to minimize costs.
31. If the work of your trade requires Controlled Inspections, coordinate same with the Contractor. You must also accommodate third party testing personnel during field sample testing.
32. If mock-up(s) are required for work of your trade, it is understood that your mock-ups shall be scheduled well in advance of actual construction of the specified area in order to allow for timely adjustments in material use, material selections and construction techniques. It is imperative that you coordinate your mock-up(s) properly to ensure full compliance with the project's schedule.
33. Cut, chop, chase, channel and core drill as required to install own Work (subject to the limitations of all "Protection" Notes listed below.)
34. Take all necessary field measurements required to perform the work of your trade. Compare carefully such field measurements, field conditions and other information known to you with the

Contract Documents before commencing activities. Report at once to the Contractor any error, inconsistency or omission that may be discovered. Provide all surveys and layout required for your trade. If required by the Work of your trade, one set of axis lines and elevation benchmark shall be provided at each floor.

35. You are responsible for arranging, scheduling and coordinating all Building Department inspections for the work of your trade, including paying all associated fees. Provide all necessary and required sign-offs for the work of your trade.
36. All change orders and proposals shall be consecutively numbered by each subcontractor as follows:

Label as (Name of Project)
 Name of Subcontractor
 Date of Proposal
 Date Work Will be Accomplished (If a ticket, indicate date work performed)
 Description of Work
 Break Down by Hours and Material of Charges, Signed Tickets, etc.
 Change Order Proposal Number: FJS-001...etc.

Use an appropriate three-letter abbreviation for your company, the above FJS-001 represents a theoretical F.J. Sciamie Proposal #001. Use consecutive proposal numbers, regardless of acceptance.

37. Comply fully with all requirements of the document entitled "Subcontractors Safety Requirements" (copy attached.) Comply in full with all State Safety codes, Local Municipal safety and building codes and Federal OSHA (Occupational Safety Health Administration) safety and health codes, NFPA (National Fire Protection Association), ANSI (American National Safety Association) safety standards, as well as all safety rules and regulations established by the Contractor to control safety hazards or unsafe conditions not regulated by other agencies and safety regulations, procedures and programs described in the Superintendent's Safety Manual applicable to your scope of work on this project. You must also provide representation to all weekly safety meetings held by the Contractor.
38. It is your responsibility to provide promptly written notice to the Contractor of all accidents arising out of or in connection with the Work which cause death, personal injury or property damage, giving full details and attaching the statements of any witnesses. If the accident results in death or serious personal injuries or serious property damage, you shall immediately report the accident to the Contractor by telephone, fax or messenger with confirmation to follow promptly thereafter. You shall notify the Superintendent on site of all injuries, regardless of severity.
39. All Contract Documents and copies thereof furnished to this Subcontractor are to be used only with respect to this project and are not to be used by this Subcontractor (or any of his or her Sub-subcontractors at any tier) on any other project or for any other purpose.
40. This Subcontractor is responsible for the construction, maintenance and removal of his or her own temporary shanties on the job site. All costs associated with the construction and furnishing of Subcontractor's shanties (including light, power, heat, etc.) are to be borne by this Subcontractor.
41. Substitution of any specified item is not permitted unless noted otherwise on the Checklist. Should this Subcontractor decide to propose further substitutions other than those contractually accepted by the Owner, then this Subcontractor must submit a written proposal request to the Architect and secure a written response/approval. The request must provide all specifications data and certification that the substitution meets all requirements of the originally specified item. Any cost savings from an accepted substitution shall be provided to the Contractor.
42. The Contractor will make available to this Subcontractor power for any electrically-operated tools, equipment and/or machinery (herein "Equipment") he or she intends to use at the job site in providing the work of this trade. However, this Subcontractor is fully responsible for familiarizing himself/herself with the electrical characteristics available at the job site (voltage, phasing, etc.) and coordinating same with the electrical requirements of his or her Equipment before bringing same to the job site. If any adjustments and/or modifications are required to be made to the Equipment of this Subcontractor in order to accommodate any deviations from the electrical characteristics available at the job site, then this Subcontractor shall be fully responsible for the costs associated with said adjustments and/or modifications.
43. Upon completion of construction, submit promptly a full set of as-built mylars, electronic BIM (or in such medium as required), warranties, operating manuals, operating instructions to the Contractor's office. You shall also provide any and all on site training to the owner as required in the contract documents or as needed to ensure safe and proper operation of any equipment or systems so installed.

44. Should this Subcontractor use during the conduct of his or her contractual scope of work a number of Operating Engineers that requires the presence on the job site of a Master Mechanic, then this Subcontractor agrees to fully assume all costs pertaining to the Master Mechanic.
45. All work applicable to your trade shown and/or described on any of the Contract Documents is included in your scope of work. It is also understood that, should individual requirements of the Contract Documents conflict, the most restrictive requirement shall prevail.
46. This subcontractor is responsible for all jurisdictional labor associated with the work of this trade. Should jurisdictional disputes arise amongst the trades present at the job site regarding items of work included in this subcontract, it is this Subcontractor's responsibility to resolve such disputes promptly and arrange for the installation of the work covered under this subcontract so as not to cause any delay to the overall schedule, at no additional cost to the Owner and/or the Construction Manager.
47. It is understood that all items of work included in this subcontract are considered by this Subcontractor to fall completely under the jurisdiction of this Subcontractor.
48. All off-hour freight deliveries have associated charges associated with the security guard, hoist operator and Sciame labor. If you desire to make off-hour or weekend deliveries, you shall reimburse Sciame for all associated costs. You shall not pass along these costs or any of your own costs for off-hour deliveries. No off-hour deliveries shall be permitted unless specifically approved by the Field Superintendent or Project Manager on an individual basis.
49. You shall provide a list of all employees, supervisors and workmen for use by the security guard. This list shall be updated weekly or more frequently as required.

Protection:

50. During all work of your trade, take all necessary precautions to protect, avoid damaging and minimize disturbance of existing adjacent construction (to remain for future re-use) and to keep patching and repairing work to a minimum.
51. Take all preventive measures required in order not to damage existing utilities, ductwork, conduits, wiring, etc. scheduled to remain. Correct any damage as directed by the Contractor.
52. Where cutting is required, use hand or small power tools designed for sawing and grinding, not hammering and chopping.
53. Where cutting through existing finishes, all work to be coordinated with the Job Superintendent.
54. Take all preventive measures required in order not to damage the existing woodwork, finishes, stone and other elements of the existing space to remain.
55. Protect own work as required, new work By Others and existing work to remain.

Project & Site Specific Requirements:

56. You shall provide a Warranty on all labor and materials for a minimum of One (1) Full Year after acceptance by the owner. If a supplier or manufacturer has provided a longer warranty or guarantee period, same shall be provided without cost to the owner. You shall be responsible for all associated costs relating to any warranty work. This shall include all cutting and patching, removals and reinstallation of other work required to provide warranty service.
57. You shall provide a minimum of 5% Attic Stock or as required by the contract documents (which ever is greater) and provide all cleaning and maintenance instructions. If applicable, provide an option for extended service or warranty.
58. Deliver in a neat and orderly manner, in an indexed binder: all manuals, instructions, warranties and specifications. Provide as built: A reproducible and 4 copies of all drawings, schedules, charts, diagrams, or more copies as specified.
59. Additionally, provide as many documents and drawings as possible in electronic format, in addition to hard copies.
60. All Electrical, Low Voltage and IT/Data Work shall be by Local #3 Electricians.
61. You shall show good faith and effort to hire MBE & WBE Subcontractors, utilize the local labor market and employ a diversified work force.